

ODP 0-368

27 MAR 1980

MEMORANDUM FOR:

[redacted]
Office of General Counsel

FROM:

[redacted]
Executive Officer, ODP

SUBJECT:

Litigation Involving: [redacted]

REFERENCE:

FOIA Request CA 80-0038/
F79-0457 dtd 24 March 80

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1. The Office of Data Processing has completed its records search under the name of [redacted] and found nothing.

2. ODP has not searched its files exhaustively but a cursory review did not find any documents relating to:

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[redacted]
The "B" Team
The "Plumbers" (or Watergate files)
MEAP
SALT I and SALT II.

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cc: IPD

O/D/ODP/[redacted]:ee/3-26-80

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OGC 80-02381
21 March 1980

ODP # 0-350

MEMORANDUM FOR: Appeals Coordinator
Information and Privacy Division/DDA

FROM : [REDACTED]
Office of General Counsel

SUBJECT : New Developments in Litigation
Involving [REDACTED]

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STATINTL 1. Several new developments have occurred with regard to the FOIA litigation brought by [REDACTED] widow of [REDACTED]. These developments require Agency employees working on this FOIA request to take a number of actions.

2. A status call has been established in this litigation. The scheduled status call date is April 14, 1980. It is likely that CIA will be required to make a number of representations to the court at this status call. These representations are set forth below:

STATINTL -- a description of the status of the search of the Agency's records conducted under the name of [REDACTED]

STATINTL -- an estimate of the timeframe required for completion of Agency records searches regarding [REDACTED]

It is essential that these representations accurately reflect the time that will be required to complete any remaining records searches, document review, and intra-component coordination. Based on these representations, it is possible the court may establish a deadline for the submission of this Agency's justification of its reasons for withholding documents or portions of documents--i.e., the requirement established in Vaughn v. Rosen. This requirement, as you well know, will serve as the basis for establishing an internal Agency deadline for the completion of each component's submission of records to OGC.

3. Accordingly, I will need the following information from each component with regard to their records search under the name of []

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- a statement indicating whether or not their records search has been completed;
- a statement indicating whether or not their records coordinations have been completed; and
- an estimate of the time required (if any) to complete all the actions necessary to locate, review, sanitize (where necessary) and coordinate all of their component's records found under the name of []

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In addition, I will also need an accurate estimate of the number of documents in their possession which have been generated by their component--that is, excluding any documents found in their files which were generated elsewhere in the Agency and have now been returned to the originator. These responses should be in writing.

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4. In addition, I have recently consulted the United States Attorney who is handling this case and have been advised that counsel for [] has not relinquished his demand for documents which he believes are relevant to death. Although the file indicates that [] counsel agreed to a limited search of CIA files under the name of [] it now appears that he will attempt to force CIA to search records indexed under the following topics for documents relating to []

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- []
- the "B" team
- the "plumbers" (or Watergate files)
- MEAP
- Salt I and Salt II

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These topics are reflected in the correspondence between IPD and the attorney for [] While it will be our position that a document-by-document search of these records constitutes an "unreasonable search" under the FOIA and, accordingly, need not be undertaken by CIA in response to

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[] request, it is imperative that I have a fairly clear idea of the number of documents involved. If the volume of documents that would be required to be searched under the topics cited above can be demonstrated, I am fairly confident that such a search will appear to be unreasonable. I cannot, however, make such a claim in the absence of a response from each component indicating the extent of their records holdings under these topics.

5. Accordingly, each component should advise me of the following, with respect to any records in their possession or custody filed under the seven topics listed above:

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- the approximate volume of such records in their possession by topic--a statement such as "approximately 40 documents consisting of approximately 170 pages filed under the name of []", "approximately 500 documents consisting of approximately 3,600 pages filed under Salt I," "approximately 700 documents consisting of approximately 4,000 pages filed under Salt II," "no documents filed under any of the other topics indicated," would suffice. If any component has voluminous files under any of these topics, instead of counting their documents, a more general description will be fine at this stage--i.e., "45 boxes of unindexed documents, each box measuring 36 x 18 inches or "75 linear feet of documents stored in file folders."
 - the approximate cost of a search of such records by topic, including photocopying costs;*/ and
 - a ballpark guess of the amount of time required to review, sanitize and coordinate such documents by topic.**/

*/ This information should be provided by topic; i.e., "estimated time required to search [] files is 37 hours"; "estimated time required to search B team files is 60 hours," etc.

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**/ This information is also required on a topic-by-topic basis. For example, statements such as "cost of searching and photocopying Salt I files is estimated to be \$400-\$500," "cost of searching and photocopying Watergate files is estimated to be \$1,500," cost of searching and photocopying MEAP files is \$150."

It is important that I have these estimates by topic, that is, giving an itemized breakdown of the volume, cost of the search and search time for documents on a category-by-category basis. In this way, it may be possible that [redacted] counsel will balk at paying for the costs of a search of all these topics and will, accordingly, narrow his request to a particular topic or topics. In addition, this information will assist me in my efforts to persuade the court that any search of these records is not reasonable and, hence, should not be undertaken by CIA. In addition, the employee or employees in each component who will be making this investigation for me of records filed under the seven topics indicated above, should also provide me with an estimate of the percentage of records under each topic that are indexed in such a way that documents relating to [redacted] could be easily identified by reference to the index. In the absence of any comments regarding such indexing, I will assume that these records are not indexed in such detail. This bit of information is important to know for the simple reason that it relates to the "reasonableness" of the request made by [redacted] counsel. A search of unindexed records on a document-by-document basis is, at least in my mind, clearly unreasonable. Accordingly, the extent of any indexing of these records is relevant to CIA's case and should be provided to me.

6. I will need all the information requested in the memorandum on or before April 4, 1980. Now that a status call has been set, you should advise everyone who is working on this case that I will need their prompt and complete support in order to make this litigation as painless as possible.

7. If anyone who has been working on this litigation has any questions about the information that will be required in writing on April 4, they should call me on extension 6046 black. I know that, for some employees who have been working diligently on the [redacted] case, these requests for information will require some effort to respond to. It is important to note, however, that without this type of detailed information the risk is increased that CIA might be required to search these records by the Federal District Court.

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